

**Washington County School District**

**501 Industrial Drive**

**PO Box 716**

**Sandersville, Georgia 31082**

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September 21, 2012

**LETTER OF APPEAL**

Schools and Libraries Division – Correspondence Unit

30 Lanidex Plaza West

PO Box 685

Parsippany, NJ 07054-0685

**Re:** Appeal of USAC's denial of funds on FCDL's issued on August 28, 2012 and September 5, 2012. (Copies attached)

**Authorized person who can best discuss this Appeal with you:**

Karen Allen

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**Information:**

**Applicant:** Washington County School District

**BEN:** 127448

**Funding Year:** 2012

<b>Form 471 Application</b>	<b>FRN</b>	<b>Service Provider</b>	<b>SPIN</b>
872592 <sup>1</sup>	2380677	AT&T Corp	143001113
873222 <sup>2</sup>	2382355	Verizon Wireless	143000677
872875 <sup>3</sup>	2381192	BellSouth	143004824

**Funding Commitment Decision Explanation:** "This FRN is denied because the Item 21 Attachment was not received on for before the filing deadline. The Item 21 Attachment is an FCC Form 471 Window filing requirement. You failed to provide sufficient documentation demonstrating the Item 21 Attachment was submitted timely. FCC Forms 471 and Item 21

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<sup>1</sup> FCC Form 471 # 872592, funding year 7/1/2012 – 6/30/2013, posted and certified on 3/20/2012 by Washington County School District.

<sup>2</sup> FCC Form 471 # 873222, funding year 7/1/2012 – 6/30/2013, posted and certified on 3/20/2012 by Washington County School District.

<sup>3</sup> FCC Form 471 # 872875, funding year 7/1/2012 – 6/30/2013, posted and certified on 3/20/2012 by Washington County School District.

Attachments that met the FCC Form 471 Window requirements have funding priority over applications received after the filing deadline. Given that funding demand for FCC Form 471 filed within the window exceeds the amount available for commitment, we cannot consider this FRN for funding.” Please note that the decision is the same for all three FRNs.

## **Background**

Mr. Charles Allen is the Technology Director at the Washington County School District. He is solely responsible for the instructional and administrative computer systems and communications networks for all five schools and administrative offices in the district. His responsibilities are extraordinarily demanding, and as is the case in so many districts, the additional time requirements and the complex details of the E-rate process too often exceed the resources of a staff person burdened with full-time responsibilities. It is important to note that the Washington County School District has not received any e-rate funds in the last six years.

For the 2012 funding year, he filed the Form 470 on time, certified it, waited more than 28 days, followed the Competitive Bidding process, filed the Form 471 and certified it on time. He did not submit the Item 21 Attachment because he was not aware that this was a filing requirement. Basically, for the first time he did everything right except file the Item 21 Attachment before the filing window closed. Additionally, he doesn’t recall getting any correspondence from the USAC reminding him that the Item 21 Attachment had not been submitted. In his mind, he had followed all the guidelines to receive e-rate funding.

On August 7, 2012, Mr. Allen contracted with Allen & Allen Consulting, LLC (no relation) to finish out e-rate activities for 2012 and manage the e-rate process for 2013 going forward. The three 2012 applications went into PIA Review on August 13, 2012. All requested information including the Item 21 Attachments were provided to the reviewer, Marc Nurnberger, on the morning of August 21. At 2:00 EST on August 21, Mr. Nurnberger replied with a letter<sup>4</sup> stating that all requests for funding would be denied.

The Washington County School District is a small rural district that desperately needs these funds. Additional budget cuts have put meeting the telecommunications needs of the district in jeopardy.

## **Appeal**

The Washington County School District respectfully requests the Schools and Libraries Division (SLD) to reverse its decision to deny funding for FRNs 2380677, 2382355, and 2381192 and grant the opportunity to complete the PIA Review process. The Washington County School District contends that:

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<sup>4</sup> USAC Letter dated August 21, 2012 from Marc Nurnberger, Associate Manager, Program Integrity Assurance

- failure to provide Item 21 Attachments within the USAC-specified time frame was due to a procedural oversight by an employee inexperienced in the E-rate process and was not the result of failure to adhere to core program requirements. The Washington County School District respectfully refers the SLD to the FCC's decision in *State of Arkansas Department of Information Systems (Arkansas DIS)*<sup>5</sup>.

As discussed in the Background section, Mr. Allen has sole responsibility for managing the district's network and IT needs. In addition, he was solely tasked with managing the E-rate program. He absolutely believed he had met all the 2012 filing requirements and was not aware that filing the Item 21 Attachment was required. As the Commission noted in *Arkansas DIS*:

...the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts or libraries. Thus, even when a school .... official becomes adept at the application process, unforeseen events ...may delay filings in the event there is no other person proficient enough to complete the forms.

Being solely responsible but inexperienced at E-rate and overburdened as the Technology Director led him to "miss a USAC procedural deadline."<sup>6</sup> However, it is clear that at no time did Mr. Allen "violate a Commission rule."<sup>7</sup>

The Washington County School District also respectfully refers the SLD to the FCC's decision in *Academy of Math and Science Tucson, AZ*.<sup>8</sup>

...as the Commission ordered in the Bishop Perry Order, the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, and the majority of their time is not dedicated to pursuing federal support, especially in small school districts....we find that rigid adherence to filing procedures does not further the purposes of section 254(h) of the Act or serve the public interest.

Mr. Allen's failure to submit the Item 21 Attachment did not "constitute violations of the Commission's rules, but instead (are) procedural violations."<sup>9</sup>

- failure to respond within the USAC-specified time frame was due to the fact that Mr. Allen did not know that it was a requirement to file the document within a specified timeframe. Furthermore, he does not recall receiving any subsequent correspondence from the USAC requesting the Item 21 Attachments after his initial filings on March 20, 2012. As soon as the applications went into review, the Item 21 Attachments were submitted to the reviewer.

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<sup>5</sup> DA 08-1418, June 13, 2008, "State of Arkansas Department of Information Systems", File Nos. SLD-395179, 414047, 430652, 446008, et al., CC Docket No. 02-6

<sup>6</sup> Ibid., p.5.

<sup>7</sup> Ibid., p.5.

<sup>8</sup> DA 10-122, July 8, 2012, "Academy of Math and Science", File Nos. SLD-487009, et al., CC Docket No. 02-6

<sup>9</sup> Ibid., p.5.

The Washington County School District respectfully refers the SLD to the FCC's decision in *Alpaugh Unified School District*.<sup>10</sup> As the Commission noted:

...Petitioners' requests ...were denied or reduced because applicants failed to respond to USAC's requests for information within the specified time frame. Petitioners generally argue that they did not actually receive the requests from USAC for additional information, that they submitted the requested information to USAC, that they requested a deferral over the summer, or that a staffing problem prevented them from submitting the requested information...we find good cause exists to grant these appeals and remand them back to USAC for further processing. Importantly, these appeals involved a procedural error on the part of the Petitioners, not a failure to adhere to a core program requirement or misuse of funds.... given that any violations that occurred were procedural, not substantive, we find that the complete rejection of these applications is not warranted. Furthermore, these appeals involved a processing deadline, not a program rule.

Mr. Allen has no recollection of receiving requests from the USAC for additional information. Again, Mr. Allen actions were the result of a "*procedural error on the part of the Petitioners, not a failure to adhere to a core program requirement.*"<sup>11</sup>

The Washington County School District also respectfully refers the SLD to the FCC's decision in "*Imagine College Preparatory High School.*"<sup>12</sup>

...grant(ed) five requests from petitioners seeking review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program. In each case, USAC denied or reduced funding because it found that the applicants failed to respond to its requests for additional information within the USAC-specified time frame. Based on our review of the record, we find that the five petitioners have demonstrated that good cause exists to justify waiver of USAC's filing deadline and allow the applicants another opportunity to respond to USAC's requests for further information.

As noted before, as soon as the applications went into review, the Item 21 Attachments were provided to the reviewer. Therefore, Mr. Allen "*demonstrated that good cause exists to justify waiver of USAC's filing deadline.*"<sup>13</sup>

Accordingly, we respectfully request the Schools and Libraries Division to apply the FCC's ruling in Arkansas DIS, Academy of Math and Science, Alpaugh Unified School District and Imagine College Preparatory High School to this case and reverse its decision to deny funding for FRNs 2380677, 2382355, and 2381192 and grant the opportunity to complete the PIA Review process.

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<sup>10</sup> DA 07-26, March 28, 2007, "Alpaugh Unified School District, Alpaugh, CA, File Nos. SLD-523576, et al, CC Docket No. 02-6

<sup>11</sup> Ibid., p.3

<sup>12</sup> DA 12-855, May 31, 2012, "Imagine College Preparatory High School", File Nos. SLD-752453, et al., CC Docket No. 02-6

<sup>13</sup> Ibid., p. 1

Thank you for your time and consideration.

**Authorized signature for this Appeal**

  
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9/21/2012  
Date

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